

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

United States of America

v.

Docket No. 07-cr-189-1-GZS

Daniel Riley

O R D E R

Defendant Riley has filed an "Ex Parte Motion to Authorize Subpoenas For Witnesses Out of State" (Document no. 261). In fact the motion lists fifteen out of state individuals, fourteen in-state witnesses, twenty-seven U.S. Marshals, six ATF agents, and four FBI agents.

BACKGROUND

I have previously found Riley to be entitled to IFP status. Under Fed. R. Civ. P. 17(b), he is entitled to be issued subpoenas when he has demonstrated an inability to pay the witnesses' fees and shown the necessity of each witnesses' presence for an adequate defense.

Riley is charged with one count of conspiracy to prevent officers of the United States from discharging their duties during the period of January 2007 through September 2007; one count of conspiracy to commit offenses against the United States

during the same period; one count of accessory after the fact; and one count of carrying, using and possessing a firearm in connection with a crime of violence.

Subpoenas may only be issued to persons whose presence is necessary to provide a defense to those charges. In an attempt to demonstrate that necessity, defendant states that he...

5. ... needs all the these (sic) witnesses to prove his innocence and to bolster his defense which entails but no (sic) limited to the following:

a) Prove the Browns did not get a fair trial and were denied there (sic) right to due process,

b) Prove the Browns tried everything to get the Federal Government to obey the law,

c) Prove the Browns were peaceful in their civil disobedience, even willing to surrender, if the law that makes them liable for income tax would just be shown to them by the Government,

d) Prove the Federal Government was breaking the law, therefore justifying the actions by the Browns and their supporters,

e) Prove the Federal Government were the outlaws not the Browns,

f) Prove the State did nothing to protect the Browns, even though by law they were required to,

g) Prove the Federals were out to destroy the Browns for exposing their corrupt ways,

h) Prove the Federals used excessive force, even coming close to killing innocent people,

g) (sic) Prove any measures taken by the Browns and their supporters were in self-defense of person, property and Country as well as being lawful,

h) (sic) Prove the Browns as well as their supporters, were just exercising their Rights,

I) (sic) Prove the motives and frame of mind of the Browns and their supporters,

j) (sic) Prove that income tax is not mandatory on the average American,

k) (sic) Prove the Government lied and fabricated evidence.

l) (sic) Prove the Browns were continuously willing to pay the tax as long as they were shown the law making them liable for such tax.

(Document no. 261)

The Browns have been convicted, sentenced and had their appeals denied. A continuation of their misguided efforts to attack the tax laws is not a defense to any of the allegations against Riley. He has wholly failed to demonstrate that any of the requested subpoenas will produce a single witness necessary

to an allowable defense.

The motion is denied without prejudice to a new motion under Rule 17(b) that demonstrates the necessity of witnesses to any permissible defense.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: February 20, 2008

cc: Counsel of Record